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Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Report of the Fifth Committee

Rapporteur: Mr. Fouad **Rajeh** (Saudi Arabia)

I. Introduction

1. At its 2nd plenary meeting, on 19 September 2003, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-eighth session the item entitled "Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991" and to allocate it to the Fifth Committee.

2. The Fifth Committee considered the item at its 21st and 29th meetings, on 24 November and 18 December 2003. Statements and observations made in the course of the Committee's consideration of the item are reflected in the relevant summary records (A/C.5/58/SR.21 and 29).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General on the budget for the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 for the biennium 2004-2005 (A/58/226);

(b) Second performance report of the Secretary-General on the International Tribunal for the Former Yugoslavia for the biennium 2002-2003 (A/58/593);

(c) Comprehensive report of the Secretary-General on the progress made by the International Tribunal for the Former Yugoslavia in reforming its legal aid system (A/58/288);

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(d) Report of the Secretary-General on the supplementary estimates arising in respect of Security Council resolution 1503 (2003) on the creation of a new position of Prosecutor for the International Criminal Tribunal for Rwanda (A/58/368);

(e) Reports of the Advisory Committee on Administrative and Budgetary Questions (A/58/449 and A/58/605).

II. Consideration of draft resolutions A/C.5/58/L.28 and A/C.5/58/L.39

4. At its 29th meeting, on 18 December, the Committee had before it two draft resolutions, entitled "Second performance report on the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 for the biennium 2002-2003" (A/C.5/58/L.28) and "Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991" (A/C.5/58/L.39), which were submitted by the Chairman on the basis of informal consultations coordinated by the representative of Australia.

5. At the same meeting, the Committee adopted draft resolutions A/C.5/58/L.28 and A/C.5/58/L.39 without a vote (see para. 7 draft resolution I and II).

6. After the adoption of the draft resolutions, a statement in explanation of position was made by the representative of Japan (see A/C.5/58/SR.29).

III. Recommendation of the Fifth Committee

7. The Fifth Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I
Second performance report for the biennium 2002-2003 on the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

The General Assembly,

Having considered the second performance report of the Secretary-General for the biennium 2002-2003 on the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991[1] and the related report of the Advisory Committee on Administrative and Budgetary Questions,[2]

[1] A/58/593.
[2] A/58/605.

Recalling its resolution 47/235 of 14 September 1993 on the financing of the International Tribunal for the Former Yugoslavia and its subsequent resolutions thereon, the latest of which were resolutions 56/247 A of 24 December 2001, 56/247 B of 27 March 2002 and 57/288 of 20 December 2002,

1. *Takes note* of the second performance report of the Secretary-General for the biennium 2002-2003 on the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991[1] and the related report of the Advisory Committee on Administrative and Budgetary Questions;[2]

2. *Endorses* the conclusions and recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions;[2]

3. *Notes with concern* the late issuance of the second performance report of the Secretary-General for the biennium 2002-2003, bearing in mind the nature of the report and the period covered therein;

4. *Resolves* that, for the biennium 2002-2003, the amount of 262,653,700 United States dollars gross (235,955,000 dollars net) approved in its resolution 57/288 of 20 December 2002 for the budget of the International Tribunal for the Former Yugoslavia shall be adjusted by the amount of 25,668,500 dollars gross (18,803,200 dollars net) for a total amount of 288,322,200 dollars gross (254,603,800 dollars net).

Draft resolution II
Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

The General Assembly,

Having considered the reports of the Secretary-General on the financing for the biennium 2004-2005 of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991[1] and the related report of the Advisory Committee on Administrative and Budgetary Questions,[2]

Recalling its resolution 47/235 of 14 September 1993 on the financing of the International Tribunal for the Former Yugoslavia and its subsequent resolutions thereon, the latest of which were resolutions 56/247 B of 27 March 2002 and 57/288 of 20 December 2002,

Recalling also Security Council resolution 1503 (2003) of 28 August 2003 concerning the creation of a new position of Prosecutor of the International Criminal Tribunal for Rwanda,

Welcoming the developments and improvements in the management and the activities of the International Tribunal for the Former Yugoslavia so far achieved during the biennium 2002-2003,

1. *Takes note* of the reports of the Secretary-General on the financing for the biennium 2004-2005 of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991[1] and the related report of the Advisory Committee on Administrative and Budgetary Questions;[2]

2. *Endorses* the conclusions and recommendations contained in the report of the Advisory Committee,[2] subject to the provisions of the present resolution;

3. *Notes with concern* the levels of unpaid assessed contributions, and urges Member States to pay their assessed contributions on time, in full and without conditions;

4. *Concurs* with the view of the Advisory Committee that continued close collaboration between the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda is essential, and urges the Secretary-General to take all necessary measures to ensure this;

5. *Decides* not to endorse the recommendation contained in paragraph 38 of the report of the Advisory Committee;[2]

6. *Encourages* Member States to consider paying their assessments in euros, consistent with regulation 3.9 and rule 103.3 of the Financial Regulations and Rules of the United Nations;[3]

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[1] A/58/226, A/58/288 and A/58/368.

[2] A/58/449.

[3] ST/SGB/2003/7.

7. *Requests* the Secretary-General to ensure that the report requested by the Assembly in paragraph 2 of its resolution 55/225 A of 23 December 2000, including the views of the Board of Auditors thereon, is submitted to the General Assembly at the main part of its fifty-ninth session;

8. *Welcomes* the efforts of the Secretary-General to present the proposed programme budget for the biennium 2004-2005 in a results-based-budgeting format, and encourages the Secretary-General to make further progress in this regard;

9. *Invites* the Security Council to continue to monitor closely the progress made by the Tribunal towards completing its mandate, in accordance with the completion strategy;

10. *Requests* the Secretary-General to develop further the link between the Tribunal's completion strategy and objectives and the resources requested in future budget proposals;

11. *Also requests* the Secretary-General to continue, where appropriate, to prioritize and deploy resources in support of the completion strategy and to report thereon in the context of the first and second performance reports for the biennium 2004-2005;

12. *Further requests* the Secretary-General to undertake efficiency measures to streamline the work of the Tribunal and to provide an assessment of the financial impact of those measures in the context of future budget proposals;

13. *Encourages* the Tribunal to continue to implement and closely monitor reforms to its legal aid system and to report thereon, in particular on consequent savings in defence costs, in the first performance report for the biennium 2004-2005;

14. *Recalls* paragraph 25 of its resolution 58/__ of __ December 2003, and requests the Secretary-General to include, where appropriate, the International Tribunal for the Former Yugoslavia in the scope of his consideration and recommendations referred to in paragraphs 38 and 39 of his comprehensive report on the progress made by the International Criminal Tribunal for Rwanda in reforming its legal aid system;[4]

15. *Decides* that vacancy rates of 10.2 per cent for Professional staff and 7.3 per cent for General Service staff shall be used as a basis for the calculation of the budget for the biennium 2004-2005;

16. *Decides* not to approve the proposed increase in resources for consultants and experts;

17. *Decides* to approve the proposed post and non-post resources for the Investigations Division in 2004 and to defer consideration of the resource requirements for the Division for 2005 to its fifty-ninth session;

18. *Requests* the Secretary-General to resubmit, in the context of the first performance report for the biennium 2004-2005, a proposal for the resource requirements for the Investigations Division for 2005, and to ensure that the proposal is adequate for the effective implementation of the completion strategy;

[4] A/58/366.

19. *Endorses* the conclusions and recommendations of the Advisory Committee on Administrative and Budgetary Questions contained in paragraph 28 of its report;[2]

20. *Concurs* with the Advisory Committee that the volume of work and the pace of completion should be monitored continuously in order to determine whether some of the posts identified for abolition or redeployment could be abolished or released for transfer to other areas of the Tribunal before the second half of 2005;

21. *Decides* to reduce the appropriation for contractual services to the level proposed in the second performance report on the programme budget for the biennium 2002-2003[5] as the proposed final appropriation, before recosting, given the savings achieved in respect of defence counsel during the biennium;

22. *Decides also* to reduce the proposed resources for travel of Registry staff by 200,000 United States dollars;

23. *Decides further* to appropriate to the Special Account for the International Tribunal for the Former Yugoslavia the total amount of 298,226,300 dollars for the biennium 2004-2005, as detailed in the annex to the present resolution;

24. *Decides* that the financing of the appropriation for the biennium 2004-2005 under the Special Account shall take into account the estimated income of 184,000 dollars for the biennium 2004-2005, which shall be set off against the aggregate amount of the appropriation;

25. *Decides also* that the total assessment for 2004 under the Special Account, amounting to 174,689,650 dollars, shall consist of:

(a) 149,021,150 dollars, being half of the estimated appropriation approved for the biennium 2004-2005;

(b) 25,668,500 dollars, being the increase in the final appropriation for the biennium 2002-2003 approved by the General Assembly in its resolution 58/__ of __ December 2003;

26. *Decides further* to apportion the amount of 87,344,825 dollars, being half of the total assessment for 2004, among Member States in accordance with the scale of assessments applicable to the regular budget of the United Nations for 2004, as set out in its resolution 58/___ of __ December 2003;

27. *Decides* to apportion the amount of 87,344,825 dollars, being half of the total assessment for 2004, among Member States in accordance with the rates of assessment applicable to peacekeeping operations for 2004;

28. *Decides also* that, in accordance with the provisions of its resolution 973 (X) of 15 December 1955, there shall be set off against the apportionment among Member States, as provided for in paragraphs 26 and 27 above, the amount of 20,051,150 dollars, consisting of:

(a) 13,185,850 dollars, being half of the estimated staff assessment income approved for the Tribunal for the biennium 2004-2005;

[5] See A/58/593.

(b) 6,865,300 dollars, being the increase in staff assessment income for the biennium 2002-2003 approved by the General Assembly in its resolution 58/___ of __ December 2003.

Annex

Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 for the biennium 2004-2005

(In United States dollars)

	Gross	*Net*
1. Estimated appropriation for the biennium 2004-2005	327 323 000	296 955 800
2. Recommendations of the Advisory Committee on Administrative and Budgetary Questions	(20 000 000)[a]	(19 948 800)[a]
3. Recommendations of the Fifth Committee	(9 096 700)	(5 152 400)
4. Revised estimated appropriation for the biennium 2004-2005	298 226 300	271 854 600
Less:		
5. Estimated income for the biennium 2004-2005	(184 000)	(184 000)
6. Total assessment for 2004,[b] comprising:	**174 689 650**	**154 638 500**
(a) Requirements representing half of the estimated appropriation for the biennium 2004-2005	149 021 150	135 835 300
(b) Requirements arising from the final appropriation for the biennium 2002-2003	25 668 500	18 803 200
Including:		
7. Contributions assessed on Member States in accordance with the scale of assessments applicable to the regular budget of the United Nations for 2004	87 344 825	77 319 250
8. Contributions assessed on Member States in accordance with the rates of assessment applicable to peacekeeping operations of the United Nations for 2004	87 344 825	77 319 250

[a] The recommendations of the Advisory Committee were not fully endorsed (see paras. 5 and 19 of the resolution. This has been taken into account in formulating line 3 above.

[b] For 2005, the relevant amount will be assessed by the General Assembly at its fifty-ninth session.